REMARKS

Claims 18-31 and 33-42 stand rejected. The Applicants respectfully request reconsideration in view of the following remarks.

Claim Rejections – 35 U.S.C. 103

Claims 18-20, 22-24, 26, 27, 30, 31 and 33-42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Telerate, Madoff, Schott and further in view of a newly cited reference, Cushing (U.S. Patent 7,613,647). Dependent claims 21, 25, 28 and 29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Telerate and Madoff in further view of Official Notice.

Claims 18, 33 and 42 are each directed at a price improvement process involving steps of or structure for (i) identifying an offsetting trade relative to a first trade of a selected financial instrument, wherein the offsetting trade is identified within a predefined period of time after execution of the first trade; (ii) determining a price improvement value based on a first price for the first trade of the selected financial instrument and a second price for the offsetting trade of the selected financial instrument; and (iii) applying the price improvement value to at least the first price for the first trade of the selected financial instrument, resulting in an adjusted first price. Support for these claims can be found at least in FIG. 3 and in the subject specification as originally filed from page 10, line 18 to page 15, line 35.

Particular examples of the claimed system and methods of price improvement *after execution of a trade* can be found in the subject specification from page 14, line 18 to page 15, line 35. By way of illustration, in one example, "a first customer buys 10 bonds at 99-16. 15 seconds later, a second customer sells 10 at 99-08. The price improvement process takes the average of the two prices, and applies this to the first customer buy and the second customer sell so that each customer receives a price improvement of 1/16 of a point." (See page 14, lines 20-25). In another example, "a

customer buys 10 bonds at 99-08. A trader, 15 seconds, later, buys 10 bonds at 99-08 from the street. In this instance, the system adjusts the customer buy trade to 10 at 99-08. (See page 15, lines 15-17).

None of the cited references teach, suggest or provide any motivation for automatically determining and applying a price improvement to a first trade of a selected financial instrument based on the price of an offsetting trade *after execution of the first trade* as recited in claims 18, 33 and 42. Madoff, Schott and Cushing all discuss applying a price improvement to orders before execution of a trade. For example, before any execution of trades, Madoff matches buy/sell market orders where the execution price is the mid-point of the spread. (See Madoff, paragraph [0044]). Likewise, before any execution of trades, Schott matches crossing customer orders before transmission to a trading exchange and splits the spread between both customers. (See Schott, paragraphs 5 and 9).

Cushing discusses a server system that implements a number of predefined trading strategies. However, like Madoff and Schott, none of the trading strategies involve automatically determining and applying a price improvement to a first trade of a selected financial instrument based on the price of an offsetting trade *after execution of the first trade* as recited in claims 18, 33 and 42. For example, Cushing discusses a Short Term Price Improvement (SPI) strategy that operates until a market order is signaled or a limit order is executed by the trade forum. In other words, any price improvement occurs before a trade is executed. (See Cushing: column 8, lines 27-52).

Furthermore, the claimed invention would not have been obvious under the additional principles outlined in the *KSR* decision. Specifically, the claimed invention provides price improvement in a manner that is contradictory to the standard practice at the time of the invention in which orders to trade were executed at the best available prices. As evidenced by Madoff, Schott and now Cushing, price improvement occurred before a trade was executed. Once a trade was executed, however, no further price improvement was applied to the executed trade. Applicants are not aware of any known

problem or need associated with such standard practice in the financial industry in which the claimed invention would have been an obvious solution to try. Moreover, to conclude that it would have been common sense to automatically determine and apply a price improvement to a first trade of a selected financial instrument based on the price of an offsetting trade identified *after execution of the first trade* would be the result of reasoning based on impermissible hindsight.

Furthermore, none of the other cited references correct the deficiencies of Madoff, Schott and now Cushing. For example, Telerate characterizes Telerate, Inc. as merely a vendor of financial information providing real-time benchmark U.S. Treasury information and price quote from other fixed income markets. (See Telerate generally). Telerate does not relate to determining and/or applying a price improvement value to trades at all.

For at least these reasons, claims 18, 33 and 42 are patentable, as they are neither anticipated nor obvious in view of the cited art of record.

Furthermore, by virtue of at least their dependency upon claims 18 and 33 and the additional features recited therein, claims 19-31 and 34-41 are also patentable.

CONCLUSION

In view of the above remarks, claims 18-31 and 33-42 are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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